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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/773,281	02/09/2004	Tsutomu Muraoka	SN-US015114A	8584
22919	7590	09/03/2004	EXAMINER	
SHINJYU GLOBAL IP COUNSELORS, LLP 1233 20TH STREET, NW, SUITE 700 WASHINGTON, DC 20036-2680			FENSTERMACHER, DAVID MORGAN	
		ART UNIT		PAPER NUMBER
				3682

DATE MAILED: 09/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/773,281	MURAOKA, TSUTOMU	
	<b>Examiner</b>	<b>Art Unit</b>	
	David M. Fenstermacher	3682	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 09 February 2004.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1,2,15-18,21,22,24-26,28-33 and 37-39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,2,15-18,21,22,24-26,28-33 and 37-39 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 09 February 2004 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>5/13/04</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-2, 15-18, 21, 24-26, 28-33, 37-39 are rejected under 35 U.S.C. 102(b) as being anticipated by Ueda (5,727,429).

Ueda discloses a pedal 12 with a shaft 52 with a rotation axis A, a pedal body 20, a front clamping member 24 having a front cleat engagement surface 66, and a rear clamping member 26 with a rear cleat engagement surface 82, a cleat 16 with a front attachment portion 140 having a front coupling surface 154, a rear attachment portion 142 with a rear engagement surface 160, and a connecting portion 144, the clamping members and attachment portions forming a rear float pivot axis perpendicular to the front cleat engagement surface and a front cleat release pivot axis perpendicular to the rear cleat engagement surface. The pedal has a front and rear control surfaces 64, 68 and the cleat has corresponding cleat control surfaces 156, 162. A rear pedal pivot surface 78 is a discontinuous concave cutout in the rear member with two flat sections and an end section configured to contact at least two points of a rear cleat pivot surface 164 that is a convex projection extending upwardly from the rear portion between two engagement sections 160. The front pedal control surface 64 has a concave center surface with a radius at least twice that of the convex surface of the front cleat control surface 156 and a pair of stop surfaces 60. The front pedal control surface further comprises a pair of laterally spaced curved end sections, visible in Figure 9, connected by the center section, which has a radius at least twice as large as the curved end

Art Unit: 3682

sections. The front and rear cleat engagement surfaces are substantially parallel, the front lying in a plane lower than the plane of the rear. The front clamping member is non-movably integrally formed, by screws, to the pedal body, and is a one piece unitary member. The rear clamping member is a rigid, non-wire member attached to the pedal body to rotate about a pin 76 parallel to the rotation axis and biased by a biasing member 28. The rear float pivot axis is substantially aligned with a pedal force center on the center rotation axis. The cleat floats about 3 degrees in either direction before contacting a stop surface, as seen in Figure 3.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ueda (5,727,429).

Ueda discloses the claimed invention except for the front clamping member 24 and the pedal body 12 being formed as a single piece.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to form the two as one piece, since it has been held that forming a one piece article which has formerly been formed in two pieces and put together is not,

Art Unit: 3682

in itself, patentable and would only require routine skill in the art. *Howard v. Detroit Stove Works*, 150 U.S. 164 (1893).

### **Conclusion**

4. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

### **Certificate of Mailing**

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

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### **Certificate of Transmission**

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (703) \_\_\_\_ - \_\_\_\_ on \_\_\_\_\_.  
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Art Unit: 3682

Signature: \_\_\_\_\_

Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David M. Fenstermacher whose telephone number is 703-305-7438. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bucci can be reached on 703-308-3668. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
David M. Fenstermacher 9/04  
Primary Examiner  
Art Unit 3682